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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/004,926

Filing Date: December 05, 2001

Appellant(s): GUSLER ET AL.

Robert A. Voigt, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/6/2009 appealing from the Office action
mailed 8/7/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct

(4) Status of Amendments

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

The rejection of claim 6 rejected under 103(a) using Burnhouse (**of record**) in view of Arsenault (**of record**).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) published May 9, 2002

Arsenault et al. (U.S. Patent No. 6,728,966) published April 27, 2004

Rashkovskiy et al. (U.S. Patent Application Publication 2004/0034867) published February 19, 2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) in view of Arsenault et al. (U.S. Patent No. 6,728,966).

Referring to claim 5, Burnhouse discloses receiving broadcast signals for a plurality of television stations (**see Figures 3-4 and Paragraph 0024**).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (**see Figures 9-10 and Paragraph 0057**), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (**see Paragraph 0062**).

Burnhouse discloses determining whether said broadcast signals include tags for associating each of said plurality of television stations with one or more classifications (**see Paragraph 0035 and Figure 3 for each program signal carrying different types of tags for category, subcategory, etc.**).

Burnhouse discloses that if the broadcast signals include said tags then comparing said tags with a list of one or more classifications associated with said plurality of television stations (**see Paragraphs 0036 and 0040**). *The examiner notes that at Paragraph 0036, Burnhouse teaches that a table of pointers 401 to the EPG is stored in the memory. Note that in Figure 3 clearly teaches that the EPG contains category and subcategories. Paragraph 0036 further teaches that table 401 is used for changing the order of the programs according to the information to be presented in the guide to user (e.g. selecting a category or subcategory to configured a specified*

display of programs as shown in Figure 5) as well as that table 401 includes an entry for the address pointer to the corresponding program data (which as shown in Figure 5 includes the category and subcategory data). Therefore using table 401, when a user selects a category and subcategory to generate a program guide corresponding to a category and/or subcategory, the table is accessed and the selected category and subcategory (***one or more classifications associated with said plurality of television stations***) are compared to the program data (***incoming tags***).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on said display according to a base set (**see Figures 8-10 and Paragraphs 0056-0061**) after the base set has been processed (**as described above after receiving the EPG data at the viewer's set-top box**).

Burnhouse fails to teach the specific classification process described in the remaining claim limitations.

Arsenault also discloses an EPG data processing system that receives broadcast signals that include tags for associating each of said plurality of television stations with one or more classifications (**see Column 4, Lines 21-24, Column 6, Lines 52-54, Column 7, Line 15 and Column 6, Line 55 through Column 7, Line 2 for receiving content records/tags 100**).

Arsenault also discloses that if said broadcast signals include said tags comparing said tags with a list of one or more classifications associated with said

plurality of television stations (**see Column 7, Lines 21-23 and Lines 47-49 for comparing incoming content records 100**).

Arsenault also discloses that if there are differences between said list of one or more classifications associated with said plurality of television stations and said tags then updating the list of one or more classifications in a database associated with said plurality of television stations to become a new base set stored in said database (**see Column 7, Lines 21-46 for creating a new base set because the content record contains new classification information**).

Arsenault also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on said display according to said new base set after said new base set has been processed (**see Column 6, Lines 50-54 for displaying a program guide based on the content records that have been classified**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG folder classification system, as taught by Burnhouse, using the specific EPG data classification process, as taught by Arsenault, for the purpose of providing improved efficiency in memory usage, increased database search speed, and/or dynamic field names (**see Column 3, Lines 17-21 of Arsenault**).

Referring to claim 4, Burnhouse discloses that folders are displayed according to a base set if there are no differences between said list of one or more classifications associated with said plurality of television stations and said tags (**see Paragraph 0041**

and Figure 5 for creating a folder EPG based on the category tag of the program (Figure 3) and that if a first and second program has a category sports, both the first and second program will be categorized in the sports folder, therefore the base set corresponds to only the category).

Referring to claim 7, Burnhouse discloses receiving broadcast signals for a plurality of television stations (**see Figures 3-4 and Paragraph 0024**).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (**see Figures 9-10 and Paragraph 0057**), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (**see Paragraphs 0061-0062**).

Burnhouse also discloses receiving input to add or delete a particular folder and adding or deleting said particular folder (**see Paragraph 0053**).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) in view of Arsenault et al. (U.S. Patent No. 6,728,966) in further view of Rashkovskiy (U.S. Patent Application Publication 2004/0034867).

Referring to claim 8, Burnhouse and Arsenault disclose all of the limitations in claim 5, and although Burnhouse discloses that a favorite channel option exists in the

program guide of Burnhouse (**see Paragraph 0056**), Burnhouse and Arsenault are silent about receiving input to add or delete an indication associated with a particular television station (**a program in the category list**) associated with a particular folder and adding or deleting said indication associated with said particular television station associated with said particular folder.

Rashkovskiy discloses a specific favorite program selection option in Paragraph 0020, which allows the viewer to add a favorite program to his/her list of favorite program that are displayed in the folders menu.

At the time the invention was made, it would have been obvious to modify the favorite program option, as taught by Burnhouse and Arsenault, to include the favorite program option, as taught by Rashkovskiy, for the purpose of better organizing the available content for easier selection and viewing (**see Paragraph 0006 of Rashkovskiy**).

Allowable Subject Matter

Claim 6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(10) Response to Argument

A. Claims 4-7 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Burnhouse in view of Arsenault

1. Burnhouse and Arsenault, taken singly or in combination, do not teach at least the following claim limitations

a. Claim 5 is patent over Burnhouse in view of Arsenault

Applicant argues that Burnhouse does not disclose “wherein if said broadcast signals include said tags then the method further comprises the step of: comparing said tags with a list of one or more classification associated with said plurality of television stations”. Applicant further notes that Burnhouse fails to teach these limitations because Burnhouse fails to teach comparing said tags and that parsing is not the same as comparing. The Examiner respectfully disagrees.

Burnhouse discloses receiving program guide data that includes category and subcategory information (see **Figures 3-4**), which upon receipt, stores the program guide data in a database including pointers to the category and subcategory information (see **Paragraph 0036**). Once the program guide data is stored, the viewer may access the program guide data for display in an electronic program guide illustrated in Figures 9-10. Once the electronic program guides of Figures 9 and 10 are accessed, the system makes a comparison with the stored television programs in the database to determine which programs to display to viewer based on the category and subcategory

tags stored in the database (**see Paragraph 0062**). Therefore, Burnhouse clearly teaches comparing said tags with a list of one or more classifications associated with said plurality of television stations, otherwise the system would not know which television programs to displays after a category and subcategory has been selected.

Applicant also argues that Burnhouse and Arsenault do not teach "wherein if there are differences between said list of one or more classifications associated with said plurality of television stations and said tags then the method further comprises the steps of: updating said list of one or more classifications in a database associated with said plurality of television stations to become a new base set stored in said database; and displaying one or more folders associated with one or more classifications for said plurality of television stations on said display according to said new base set after said new base set has been processed". Applicant specifically notes that Arsenault only teaches that if there are no records currently stored, then a control circuit may create a new content record and a new content record is not created if there are differences between a list of classifications associated with television stations and the tags. The Examiner respectfully disagrees.

Arsenault discloses that content records 100 (**the EPG data**) is stored as it is received (**see Column 7, Line 15**) where Figure 4 updates the EPG database as the EPG data is received. Arsenault further teaches that updating the EPG database includes comparing the tags to the data in the EPG database and determining if there are differences between the list of one or more classification (**see Column 7, Lines 15-**

46). Arsenault further discloses that if there are differences, updating said list of one or more classifications in a database associated with said plurality of television stations to become a new base set stored in said database (**see Column 7, Lines 52-55 for creating a new record if there are differences with previously stored EPG data and the received EPG data**). Therefore, Arsenault clearly discloses updating the EPG database with a new base set if there are differences (**no matching content record found**) between a list of classifications associated with television stations and the tags (**the EPG data already stored in the database and the incoming content records received**).

b. **Claims 4 and 6-7 are patentable over Burnhouse in view of Arsenault for at least the reasons that claim 5 is patentable over Burnhouse in view of Arsenault**

In regards to Applicant's arguments, see the rebuttal above in regards to section 1a.

c. **Claim 4 is patentable over Burnhouse in view of Arsenault**

Regarding claim 4, Applicant argues that Burnhouse does not disclose "wherein said one or more folders associated with said one or more classifications for said plurality of television stations on said display are displayed according to a base set if

there are no differences between said list of one or more classifications associated with said plurality of television stations and said tags". Applicant further notes that Figures 3 and 5 do not disclose displaying television stations according to a base set. Applicant further notes that Figures 3 and 5 do not disclose displaying according to a base set if there are no differences between the list of one or more classifications associated with the plurality of television station sand the tags.

Burnhouse discloses receiving program guide data that includes category and subcategory information (**see Figures 3-4**), which upon receipt, stores the program guide data in a database including pointers to the category and subcategory information (**see Paragraph 0036**). Once the program guide data is stored, the viewer may access the program guide data for display in an electronic program guide illustrated in Figures 9-10. Once the electronic program guides of Figures 9 and 10 are accessed, the system makes a comparison with the stored television programs in the database to determine which programs to display to viewer based on the category and subcategory tags stored in the database (**see Paragraph 0062**). Therefore, the stored EPG data (**with pointers**) are used to display a base set, wherein a base set is any category or subcategory where each television program resides and used to access a list of television programs corresponding to the selected category and subcategory.

Further, Arsenault teaches that if there are differences between a list of classifications associated with television stations and the tags, creating a new base set (**content record**). Alternatively, if there are no differences between said list of one or more classifications associated with said plurality of television stations and said tags,

adding the content record to an existing base set (**Column 7, Lines 55-59**), which is displayed to the view when an EPG is requested by the viewer (**see Column 1, Lines 61-64**).

Applicant further notes that the Examiner has not provided any basis in fact and/or technical reasoning to support the assertion that a "base set", as defined in Appellants' Specification, refers to a category and that a "specific set", which is not used in Appellants' Specification, refers to a sub-category.

The Examiner notes that the term "base set" has been used in the specification to state the collection of programs stored in a database and displayed to the viewer after all the received tags have been processed. The Examiner notes that both Burnhouse and Arsenault both disclose a base set, as discussed above. Burnhouse teaches a base set in regards to the EPG data stored in the database that refers to a particular category/subcategory (**where each category/subcategory represents a different base set**). Arsenault teaches a similar database that contains multiple sets classified according to various attributes (**see above**). The Examiner further notes that this interpretation is consistent with Applicant's use of the term "base set" in Applicant's specification.

d. **Claim 6 is patentable over Burnhouse in view of Arsenault**

In regards to Applicant's arguments, the examiner notes that the rejection has been withdrawn and claim 6 is now objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (**see updated rejection above**).

B. Claim 8 is not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Burnhouse in view of Arsenault and Rashkovskiy

Regarding claim 8, Applicant argues that Rashkovskiy does not disclose "receiving input to add or delete an indication associated with a particular television station associated with a particular folder; and adding or deleting said indication associated with said particular television station associated with said particular folder".

As stated in the previous Office Action Rashkovskiy discloses selection of a favorite program or group of favorite programs (**see Paragraph 0020**), which teaches receiving input to add an indication associated with a particular television station associated with a particular folder and as a result of the selection, adding favorite programs to the folder.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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/Jason P Salce/

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April 23, 2009

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